

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BARON FINANCIAL CORPORATION,

*

Plaintiff,

*

v.

*

Civil Action No. MJG 03 CV 168

ERN, LLC

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Defendant

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DEFENDANT/COUNTERCLAIMANT ERN, LLC'S
MOTION FOR LEAVE TO FILE THIRD-PARTY COMPLAINT

Defendant ERN, LLC, by its attorneys, Paul Mark Sandler, Robert B. Levin, Eric R. Harlan, Shapiro, Sher, Guinot & Sandler, and pursuant to Federal Rule of Civil Procedure 14(a), hereby moves this Honorable Court for leave to file a Third-Party Complaint, and in support of its Motion states as follows.

1. Plaintiff Baron Financial Corporation ("Baron") has filed this action to collect payments allegedly due to it from Defendant ERN, LLC ("ERN") under a Memorandum of Understanding ("MOU") and Rider to the MOU ("Rider") that settled prior litigation¹ between the parties and persons and entities affiliated with the parties.

2. ERN Counterclaimed alleging that Baron failed to make payments to certain third parties pursuant to ERN's assignment to Baron of electronic payment processing portfolios ("the Assigned Portfolios") under the MOU and Rider.

¹ The prior litigation in this Court was styled Michelle Trading Corporation v. Rony Natanzon, Civil Action No. MJG—02-CV-1868.

3. The MOU settling the prior litigation provided that Sam Buchbinder (who controls Baron), could enter into any line of business, including businesses that competed with ERN. However, the MOU also provided that Buchbinder could not solicit employees or customers of ERN.

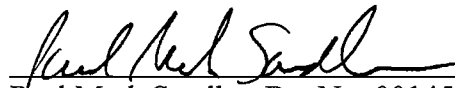
4. ERN now alleges that, in violation of the non-solicitation provision of the MOU, Buchbinder, through a competitor company, Abanco International LLC ("Abanco"), has directly solicited employees and customers of ERN. ERN therefore seeks leave of Court to file a Third-Party Complaint against Sam Buchbinder and Abanco International LLC alleging breach of the MOU and interference with ERN's economic relations.

5. A copy of ERN's proposed Third-Party Complaint is attached hereto.

6. ERN, LLC incorporates the accompanying Memorandum in Support of its Motion for Leave to File Third-Party Complaint as if fully set forth herein.

WHEREFORE, Defendant/Counterclaimant ERN, LLC respectfully requests that his Court grant it leave to file the Third-Party Complaint attached hereto.


Respectfully submitted,



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Robert B. Levin, Bar No. 00695



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